

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYRISS PENN,

Defendant.

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**Case No. 8:15CR76
Case No. 8:15CR79**

**ORDER
(Sealed)**

This matter is before the court on the defendant's Motion to Determine the Mental Competency of the Defendant to Stand Trial (#33 in Case No. 8:15CR76 and #21 in Case No. 8:15CR79), pursuant to 18 U.S.C. § 4241(a).

An evidentiary hearing in accordance with 18 U.S.C. § 4247(d) was held before the undersigned magistrate judge on June 3, 2015. The defendant was present with his counsel, Thomas J. Monaghan. The United States was represented by Assistant United States Attorney, Susan Lehr. Defendant's Exhibit 101 was admitted into evidence. The government does not contest the motion.

Exhibit 101, Dr. Bruce Gutnik's report, concludes that the defendant is not at this time competent to stand trial and cannot adequately participate in his own defense in a knowing and rational manner. Therefore I find, by a preponderance of the evidence, that the defendant is presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceeding against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.

IT IS ORDERED:

1. The defendant's Motion to Determine the Mental Competency of the Defendant to Stand Trial (#33 in Case No. 8:15CR76 and #21 in Case No. 8:15CR79), is granted.

2. Tyriss Penn is not presently competent to stand trial and is committed under Title 18 U.S.C. § 4241(d) to the custody of the Attorney General for hospitalization and treatment in a suitable facility for such a reasonable period of time not to exceed four months, as necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and for additional reasonable periods of time until his mental condition is so improved the trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed or the pending charges against him are disposed of according to law, whichever is earlier.

Dated this 3rd day of June 2015.

BY THE COURT:

s/ F.A. Gossett, III
United States Magistrate Judge